D.B. CIVIL SPECIAL APPEAL NO.567/1998
(Kr. Anjana Mathur V/s State of Rajasthan and ors.)

22.2.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P.VYAS

Mr.A.K.Chaudhary for the appellant

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Having heard the learned counsel for the appellant, we are of the opinion that no interference is called for in this case.

The writ petition was filed challenging the order dtd. 11.3.1998 by which services of the petitioner – appellant were terminated by the respodnent No.2 which is a private school.

From the averments made in the writ petition, it is also not clear whether the respondent – school is not an aided school as no averment to that effect has been made nor is it clear whether it is non-government educational institution recognized under the Act of 1989.

Apart from that, the writ petition has been dismissed finding that the Educational Tribunal has

been set up by the State Government for hearing the appeal against the termination order passed by the Institution governed by the Act of 1989 to which an appeal lay. The petitioner has equally efficacious alternative remedy and writ under Article 226 cannot be issued to a private person. The petitioner was given time to approach the Tribunal.

The only ground which has been stated and urged by the petitioner for not availing the alternative remedy is that the Educational Tribunal is set up at Jaipur for whole of the State of Rajasthan and since sitting is not available at Jodhpur, therefore, it is not efficacious alternative remedy.

This can hardly in the circumstances be considered to be a reason for bypassing the efficacious remedy available to the petitioner under a statute. Notwithstanding the fact that Benches of the Education Tribunals have not been set up at different places within the State, absence of Bench cannot be made a ground that the remedy provided by way of appeal to such Tribunal is inadequate or in efficacious. Ordinarily, when new Tribunals are set up, it is usually set up for whole of the State and

depending upon the work and need, more benches may be established at the same place or different place later on.

We are, therefore, of the opinion that the discretion exercised by the learned Single Judge in not entertaining the writ petition on the availability of equally efficacious remedy does not call for any interference.

Accordingly, the appeal is dismissed. No order as to costs.

(R.P.VYAS)J (RAJESH BALIA)J.

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